

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julian Phillips	Team: Squad #6	CCRB Case #: 201802530	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 11/06/2017 , Tuesday, 11/14/2017 8:30 AM	Location of Incident: 13th Precinct Stationhouse	Precinct: 13	18 Mo. SOL 5/14/2019	EO SOL 5/14/2019	
Date/Time CV Reported Sun, 04/01/2018 10:05 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 04/01/2018 10:05 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Eric Hayden	4620	934998	013 DET
2. POM Leonardo Nimo	00511	928869	013 DET
3. An officer			013 DET

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Eric Hayden	Abuse: On November 6, 2017, over the phone, Detective Eric Hayden threatened to arrest § 87(2)(b)	
B.DT3 Eric Hayden	Discourtesy: On November 14, 2017, Detective Eric Hayden spoke discourteously to § 87(2)(b)	
C.POM Leonardo Nimo	Discourtesy: On November 14, 2017, Police Officer Leonardo Nimo spoke discourteously to § 87(2)(b)	
D. An officer	Discourtesy: On November 14, 2017, an officer spoke discourteously to § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		

### Case Summary

On April 1, 2018, § 87(2)(b) filed this complaint with the CCRB via the on-line website.

On November 6, 2017 at approximately 10:00 p.m., Detective Eric Hayden of the 13th Precinct Detective Squad called § 87(2)(b) and informed her that, if she did not appear at the 13th Precinct stationhouse, he would issue a warrant for her arrest (**Allegation A: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) subsequently appeared at the 13th Precinct stationhouse on November 14, 2017 and was arrested. At approximately 8:10 a.m., Det. Hayden and Police Officer Leonardo Nimo, also of the 13th Precinct Detective Squad, transported § 87(2)(b) to Manhattan Central Booking. During the drive, both officers allegedly used the word “fuck” in speaking to one another in § 87(2)(b)'s presence (**Allegations B and C: Discourtesy, § 87(2)(g)**). A third officer in the vehicle also allegedly used the word “fuck” in speaking with Det. Hayden and PO Nimo (**Allegation D: Discourtesy, § 87(2)(g)**). § 87(4-b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

There was no video footage of this incident.

### Findings and Recommendations

#### **Allegation (A) Abuse of Authority: On November 6, 2017, over the phone, Detective Eric Hayden threatened to arrest § 87(2)(b)**

In her sworn statement to the CCRB (01 Board Review), § 87(2)(b) stated that Det. Hayden called her and informed her that she needed to come to New York City to meet with him for an urgent matter. Det. Hayden further stated that, if § 87(2)(b) did not appear, he would issue a warrant for her arrest.

In his statement to the CCRB (02 Board Review), Det. Hayden stated that, prior to calling § 87(2)(b) he had been assigned to handle a complaint filed by § 87(2)(b)'s daughter, who alleged that her mother was harassing her and had completed a Domestic Incident Report. Based on this Domestic Incident Report, Det. Hayden had probable cause to arrest § 87(2)(b). Det. Hayden subsequently called § 87(2)(b) and informed her that she needed to surrender herself pursuant to a complaint filed by her daughter. Det. Hayden also told § 87(2)(b) that an I-Card had been or would be generated for her arrest.

Complaint Report § 87(2)(b) states that, on § 87(2)(b), § 87(2)(b)'s daughter filed a complaint of Aggravated Harassment against § 87(2)(b) (03 Board Review). Investigation Card § 87(2)(b) which was generated by Det. Hayden on October 19, 2018, cites probable cause to arrest § 87(2)(b) for Aggravated Harassment (04 Board Review). The Criminal Court Complaint prepared pursuant to § 87(2)(b)'s arrest states that § 87(2)(b)'s daughter reported that § 87(2)(b) said during a telephone conversation, “If you don’t answer me,

you will pay” (16 Board Review). New York State Penal Section 240.30 defines Aggravated Harassment in the Second Degree as encompassing the act of transmitting, by telephone or electronic communication, “a threat to cause physical harm” (15 Board Review).

§ 87(2)(g)

**Allegation (B) Discourtesy: On November 14, 2017, Detective Eric Hayden spoke discourteously to § 87(2)(b)**

**Allegation (C) Discourtesy: On November 14, 2017, Police Officer Leonardo Nimo spoke discourteously to § 87(2)(b)**

In her sworn statement to the CCRB, § 87(2)(b) stated that, while Det. Hayden and another officer, identified by the investigation as PO Leonardo Nimo, were transporting her from the 13<sup>th</sup> Precinct stationhouse to Manhattan Central Bookings, both officers repeatedly used the word “fuck” while speaking to one another. § 87(2)(b) specified that the officers did not use profanity in speaking directly to her, nor did they use profanity in speaking about her, but that because she was handcuffed in the vehicle, she could not avoid hearing their conversation.

In their sworn statements to the CCRB, Det. Hayden and PO Nimo (05 Board Review) both stated that they did not recall using the word “fuck” in conversation while transporting § 87(2)(b) to Manhattan Central Booking.

§ 87(2)(g)

**Allegation (D) Discourtesy: On November 14, 2017, an officer spoke discourteously to § 87(2)(b)**

In her sworn statement to the CCRB, § 87(2)(b) stated that a third officer, who accompanied Det. Hayden and PO Nimo in transporting her to Manhattan Central Bookings, also used the word “fuck” in speaking to the other officers. § 87(2)(b) could not identify or describe this officer besides recalling that he was a male with an olive complexion.

In their statements to the CCRB, neither Det. Hayden nor PO Nimo could recall a third officer who accompanied them in transporting § 87(2)(b) to Manhattan Central Bookings. Neither officer’s memo book identifies any such officer (06 Board Review, 07 Board Review). The Command Log entry documenting § 87(2)(b)’s arrest (08 Board Review) identifies only Det. Hayden and PO Nimo as the officers transporting § 87(2)(b).

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (09 Board Review).
- Det. Eric Hayden has been a member of service for 14 years and has been a subject in four CCRB complaints and eight allegations, none of which was substantiated (10 Board Review).
  - CCRB case 200512347 involved an unsubstantiated allegation that Det. Hayden used the word “fuck” in speaking to an individual in police custody.
- PO Leonardo Nimo has been a member of service for 17 years and has been a subject in nine CCRB complaints and 18 allegations, three of which were substantiated (11 Board Review).
  - CCRB case 201702813 involved substantiated allegations of Abuse-Threat of Arrest, Abuse-Threat of Force, and Discourtesy-Word. The Board recommended Command Discipline A and the NYPD has not yet imposed discipline.
  - CCRB case 200306951 involved an unfounded allegation that PO Nimo used the word “fuck” in speaking to a civilian.

#### **Mediation, Civil, and Criminal Histories**

- This case was determined to be eligible for mediation because § 87(2)(b)'s criminal matter had been resolved; however, § 87(2)(b) declined to mediate this complaint.
- As of June 15, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (12 Board Review).

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature Print Title & Name Date

Squad Leader: \_\_\_\_\_  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date